

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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----- X  
BAYER HEALTHCARE LLC,

Plaintiff,

vs.

SERGEANT'S PET CARE PRODUCTS, INC.,

Defendant.  
----- X

13-cv-2501 (JSR)  
ECF CASE

RECEIVED  
2013 MAY 17 P 10:11  
U S DISTRICT COURT SDNY

**REPLY DECLARATION OF DANIEL ENNIS, Ph.D, D.Sc.**

**Retention and Summary of Conclusions**

1. I have been asked by counsel for Bayer to provide a reply declaration with respect to the results of tests conducted on behalf of Sergeant's Pet Care Products, Inc. ("Sergeant's"). I understand that Sergeant's has dismissed my criticisms of its studies. In this declaration I elaborate on several shortcomings of Sergeant's studies.

2. I conclude as follows:

*Redacted*

*Redacted*

*Redacted*

3. I refer to my report of May 6 for my qualifications and experience.

**Expert Opinions**

4.

*Redacted*

*Redacted*

5.

*Redacted*

*Redacted*

6.

*Redacted*

*Redacted*

7.

*Redacted*

*Redacted*

*Redacted*

8.

*Redacted*

*Redacted*

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1

*Redacted*

*Redacted*

9.

*Redacted*

*Redacted*

*Redacted*

As noted in Introduction to Probability and Statistics by Mendenhall and Beaver: “for many populations, the sampling distribution of (the mean) will be approximately normal for moderate sample sizes; an exception to this rule is the binomial experiment when either  $p$  or  $(1-p)$  is small.” William Mendenhall & Robert J. Beaver, Introduction to Probability and Statistics 232 (9th ed. 1994).

*Redacted*

*Redacted*

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on May 17, 2013 in Richmond, Virginia.

*Daniel M. Ennis*

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Daniel M. Ennis

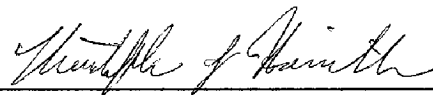


I also caused copies of the aforementioned documents to be served by hand delivery on the following day to the following address:

Paul Garrity, Esq.  
Sheppard Mullin Richter & Hampton LLP  
30 Rockefeller Plaza  
New York, NY 10112-0015

Pursuant to 28 U.S.C. § 1746, I certify under the penalty of perjury that the foregoing is true and correct.

Executed on May 17, 2013.

A handwritten signature in cursive script, appearing to read "Christopher J. Hamilton", is written over a horizontal line.

Christopher J. Hamilton

# **EXHIBIT 1**



*Redacted*

# **EXHIBIT 2**

*Redacted*

# **EXHIBIT 3**

Redacted

# **EXHIBIT 4**

Redacted

# **EXHIBIT 5**



Redacted